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Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/810,408
Filing Date: March 26, 2004
Appellant(s): HOO ET AL.

Ognyan I. Beremski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/22/2010 appealing from the Office action mailed 09/02/2009.

(1) Real Party of Interest

A statement identifying the real party of interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1—46

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,456,675	Wagner et al.	09-2002
7,245,678	Tanaka	07-2007
2005/0018634	Mantha et al.	01-2005
7,049,933	Koerner	05-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> ((b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5 – 7, 15, 17, 19 – 23, 28, 31, 32, 34, 36 – 40, 42, 44 – 46 are rejected under 35 U.S.C. 102 (b) as being anticipated by Wagner et al. (US Patent 6,456,675).

Regarding claim 1, Wagner et al. teach a method for processing signals in a communication system (see abstract), the method comprising: determining a signal quality metric for each of a plurality of signal paths (see abstract lines 1 – 3), wherein one or more of said plurality of signal paths is selected based on stored information for preceding frames, the preceding frames received via each of the plurality of signal paths (see abstract and column 18, lines 3 – 21 and column 7, lines 39 – 40); assigning a threshold signal quality metric for the plurality of signal paths (see abstract and column 18, lines 3 – 21); and discarding a signal path from the plurality of signal paths , if the determined signal quality metric for the signal path does not satisfy the threshold signal quality metric (see abstract and column 18, lines 3 – 21).

Regarding claim 3, which inherits the limitations of claim 1, Wagner et al further teach assigning a fixed threshold signal quality metric for each of the plurality of signal paths (see abstract and column 18, lines 3 – 21).

Regarding claim 5, which inherits the limitations of claim 1, Wagner et al. further teach wherein the signal quality metric comprises at least one of a power level

characteristic, a packet error rate characteristic, a bit error rate characteristic, a propagation channel characteristic, and an interference level characteristic (see abstract).

Regarding claim 6, which inherits the limitations of claim 1, Wagner et al. further teaches wherein at least one of the signal paths comprises an antenna (see figure 1, 2, 3 and abstract).

Regarding claim 7, which inherits the limitations of claim 1, Tanaka further teaches wherein each of the plurality of signal paths comprises at least one of a receive signal path and a transmit signal path (see figure 1, 2, 3 and abstract).

Regarding claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 1 is applicable hereto.

Regarding claim 17, which inherits the limitations of claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 3 is applicable hereto.

Regarding claim 19, which inherits the limitations of claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 5 is applicable hereto.

Regarding claim 20, which inherits the limitations of claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 6 is applicable hereto.

Regarding claim 21, which inherits the limitations of claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 7 is applicable hereto.

Regarding claim 22, which inherits the limitations of claim 1, Wagner et al. further teach the method further comprising selecting a first of said plurality of signal paths based on said previously stored information for preceding frames (see abstract and column 18, lines 3 – 21).

Regarding claim 28, which inherits the limitations of claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 22 is applicable hereto.

Regarding claim 31, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 1 is applicable hereto. Wagner et al. further teach selecting a target signal path from said plurality of signal paths, for receiving the signals, based on said determined signal quality metric for said plurality of signal paths and said threshold signal quality metric (see abstract and column 18, lines 3 – 21).

Regarding claim 32, which inherits the limitations of claim 31, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 1 is applicable hereto.

Regarding claim 34, which inherits the limitations of claim 31, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 3 is applicable hereto.

Regarding claim 36, which inherits the limitations of claim 31, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 5 is applicable hereto.

Regarding claim 37, which inherits the limitations of claim 31, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 6 is applicable hereto.

Regarding claim 38, which inherits the limitations of claim 31, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 7 is applicable hereto.

Regarding claim 40, which inherits the limitations of claim 39, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 1 is applicable hereto.

Regarding claim 42, which inherits the limitations of claim 39, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 3 is applicable hereto.

Regarding claim 44, which inherits the limitations of claim 39, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 5 is applicable hereto.

Regarding claim 45, which inherits the limitations of claim 39, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 6 is applicable hereto.

Regarding claim 46, which inherits the limitations of claim 39, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 7 is applicable hereto.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2, 4, 16, 18, 33, 35, 39, 41, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. (US Patent 6,456,675) in view of Tanaka (US Patent 7,245,678 B2).

Regarding claim 2, which inherits the limitations of claim 1, Wagner et al does not expressly teach assigning different threshold to each of the signal paths. However in analogous art, Tanaka teaches assigning a different threshold signal quality metric for each of the plurality of signal paths (see figure 1, 2, 3 and abstract and column 5, lines 16 - 20 and column 7, lines 55 – 65 and column 5, line 30). Therefore it would have been obvious to an ordinary skilled in the art at the time the invention was made to incorporate the teaching of applying different threshold in Wagner. The motivation or suggestion to do so is to have a guaranteed quality for the received and reproduced signal.

Regarding claim 4, which inherits the limitations of claim 1, Tanaka further teaches dynamically changing the threshold signal quality metric for each of the plurality of signal paths (see figure 1, 2, 3 and abstract and column 7, lines 3 – 20 and column 7, lines 55 – 65)

Regarding claim 16, which inherits the limitations of claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 2 is applicable hereto.

Regarding claim 18, which inherits the limitations of claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 4 is applicable hereto.

Regarding claim 33, which inherits the limitations of claim 31, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 2 is applicable hereto.

Regarding claim 35, which inherits the limitations of claim 31, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 4 is applicable hereto.

Regarding claim 41, which inherits the limitations of claim 39, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 33 is applicable hereto.

Regarding claim 43, which inherits the limitations of claim 39, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 35 is applicable hereto.

5. Claims 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. (US Patent 6,456,675) in view of Mantha et al. (US 2005/0018634 A1).

Regarding claim 23, which inherits the limitations of claim 1, Wagner et al. does not expressly teach selecting a path based on history of previously selected paths. However in analogous art Mantha et al teach the method further comprising selecting one or more of said plurality of signal paths based on a history of previously selected signal paths (see page 7 right hand column, lines 8 - 12). Therefore it would have been obvious to an ordinary skilled in the art at the time the invention was made to incorporate the teaching of selecting signal path based on the history. The motivation or suggestion to do so is to detect signal accurately.

Regarding claim 29, which inherits the limitations of claim 15, the claimed system including the features that corresponds with subject matter mentioned above in the rejection of claim 23 is applicable hereto.

6. Claims 8, 10, 12 – 14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. (US Patent 6,456,675) in view of Koerner (US Patent 7,049,933).

Regarding claim 8, 10, 12 – 14 and 28 - 30, Wagner et al is cited as explained in the above paragraph. Wagner et al does not expressly teach the antenna selecting functions is done by a Machine-readable medium having stored instructions stored thereon to perform the cited functions. However, Koerner teach a Machine-readable medium having stored instructions stored thereon to perform selecting at least one

signal path (see column 15, lines 39 – 57). Therefore it would be obvious to an ordinary skilled in the art at the time the invention was made to perform Wagner et al's method in a machine-readable medium. The motivation or suggestion to do so is to reduce the cost of the receiver.

7. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. (US Patent 6,456,675) in view of Tanaka (US Patent 7,245,678 B2) and further in view of Koerner (US Patent 7,049,933).

Regarding claim 9 and 11, Wagner et al in view of Tanaka is cited as explained in the above paragraph. Wagner et al in view of Tanaka does not expressly teach the antenna selecting functions is done by a Machine-readable medium having stored instructions stored thereon to perform the cited functions. However, Koerner teach a Machine-readable medium having stored instructions stored thereon to perform selecting at least one signal path (see column 15, lines 39 – 57). Therefore it would be obvious to an ordinary skilled in the art at the time the invention was made to perform Wagner et al in view of Tanaka method in a machine-readable medium. The motivation or suggestion to do so is to reduce the cost of the receiver.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al. (US Patent 6,456,675) in view of Mantha et al. (US 2005/0018634 A1) and further in view of Koerner (US Patent 7,049,933).

Regarding claim 9 and 11, Wagner et al in view of Mantha et al is cited as explained in the above paragraph. Wagner et al in view of Mantha et al does not expressly teach the antenna selecting functions is done by a Machine-readable medium

having stored instructions stored thereon to perform the cited functions. However, Koerner teach a Machine-readable medium having stored instructions stored thereon to perform selecting at least one signal path (see column 15, lines 39 – 57). Therefore it would be obvious to an ordinary skilled in the art at the time the invention was made to perform Wagner et al in view of Mantha et al method in a machine-readable medium. The motivation or suggestion to do so is to reduce the cost of the receiver.

(10) Response to Argument

a. Rejection of Claims 1, 3, 5 – 7, 15, 17, 19 – 23, 28, 31, 32, 34, 36 – 40, 42, and 44 - 46 under 35 U.S.C. § 102(b)

With respect to claims 1, 15, 31, 32, and 39, Applicant group claims 1, 15, 31, 32, and 39 together and limit the argument on claim 1 only. In particular, Applicant argues that *"…Wagner does not disclose or suggest at least the limitation of "determining a signal quality metric for a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information related to preceding frames, the stored information received via each of the plurality of signal paths," as recited by the Appellant in independent claim 1."*

Response - - However the Office respectfully disagrees. The Office submits that Wagner teaches "evaluating each of the plurality of signal sources (paths) based upon reception of test data to provide a plurality of quality metrics" (see column 18 lines 6 – 8). This is equivalent to the limitation "*determining a signal quality metric for a plurality*

of signal paths". Wagner further teaches "selecting a payload signal source (signal path) based on the plurality of quality metrics" (see column 18, lines 9). Wagner further teaches "selecting the payload signal source based at least upon **a previous quality metric corresponding to a previous payload signal source**" (see column 18, lines 17 – 19). Wagner further teach "quality metric, Q(T), of the test antenna is updated and stored" (see column 7, lines 39 – 40). Further Wagner teaches that each antennas (signal paths) are tested and the quality metric Q(T) is stored for each of the signal paths (see column 7, lines 39 – 46 and column 14, lines 43 – 44) . Therefore Wagner clearly teach the limitations of "one or more of said plurality of signal paths is selected based on stored information related to preceding frames". Therefore Wagner clearly teaches above mentioned limitations. Therefore claims 1, 15, 31, 32, and 39 remains stand rejected.

Applicant further argue "*There is no disclosure that a signal path is selected based on stored information related to preceding frames, where the stored information is received via each of the plurality of signal path".* However the Office respectfully disagrees. Wagner further teach "quality metric, Q(T), of the test antenna is updated and stored" (see column 7, lines 39 – 40). Further Wagner teaches that each antennas (signal paths) are tested and the quality metric Q(T) is stored for each of the signal paths (see column 7, lines 39 – 46 and column 14, lines 43 – 44) . Therefore Wagner clearly teaches storing the quality metric.

Applicant further argues, *"Wagner's antenna selection is based only on a current quality metric value for the specific antenna, and it is not based on stored information*

related to preceding frames, where the stored information is received via each of the plurality of signal paths." However the Office respectfully disagrees. Wagner clearly teaches "selecting the payload signal source based at least upon **a previous quality metric corresponding to a previous payload signal source**" (see column 18, lines 17 – 19). Wagner further teach "quality metric, Q(T), of the test antenna is updated and stored" (see column 7, lines 39 – 40). Further Wagner teaches that each antennas (signal paths) are tested and the quality metric Q(T) is stored for each of the signal paths (see column 7, lines 39 – 46 and column 14, lines 43 – 44) . Therefore Wagner clearly teach the limitations of "one or more of said plurality of signal paths is selected based on stored information related to preceding frames". Therefore Wagner clearly teaches above mentioned limitations.

With respect to claims 3, 17, 34, and 42, Applicant group claims 3, 17, 34, and 42, together and limit the argument on claim 3 only. In particular, Applicant argues that *"…Appellant submits that claims 3, 17, 34, and 42 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. With regard to the rejection of dependent claim 3 under Wagner, the Appellant submits that Wagner does not disclose or suggest at least the limitation of" assigning a fixed threshold signal quality metric for each of the plurality of signal paths," as recited by the Appellant in dependent claim 3."*

Response -- With respect claims 3, 17, 34, and 42, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to

the argument with respect to claim 1 above is applied here. The office further submits that Wagner teach applying fixed threshold to all of the signal paths. Wagner further teach "In a preferred embodiment, the threshold is set to 127" (see column 14, lines 58 – 59) which clearly shows having a fixed threshold. Wagner further teach "the selection is accomplished by comparing the quality metrics for each of the receive antennas and selecting the antenna corresponding to the quality metric" (see column 14, lines 65 – column 15, lines 1). Therefore Wagner teach all cited limitations. Therefore claims 3, 17, 34, and 42 remains stand rejected.

With respect to claims 5, 19, 36, and 44, Applicant argues that *"…the Appellant submits that claims 5, 19, 36, and 44 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1."*

Response – With respect claims 5, 19, 36, and 44, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here.

With respect to claims 6, 20, 37, and 45, Applicant argues that *"…the Appellant submits that claims 6, 20, 37, and 45 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1."*

Response – With respect claims 6, 20, 37, and 45, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here.

With respect to claims 7, 21, 38, and 46, Applicant argues that *"…the Appellant submits that claims 7, 21, 38, and 46 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1."*

Response – With respect claims 7, 21, 38, and 46, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here.

With respect to claims 22 and 28, Applicant argues that *"…the Appellant submits that claims 22 and 28 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1 With regard to the rejection of dependent claim 22 under Wagner, the Appellant submits that Wagner does not disclose or suggest at least the limitation of "selecting a first of said plurality of signal paths based on said previously stored information related to preceding frames," as recited by the Appellant in dependent claim 22.."*

Response – With respect claims 22 and 28, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here. The Office further submits that Wagner clearly teaches "selecting the payload signal source based at least upon a previous quality metric corresponding to a previous payload signal source" (see column 18, lines 17 – 19). Wagner further teach "quality metric, Q(T), of the test antenna is updated and stored" (see column 7, lines 39 – 40). Further Wagner teaches that each

antennas (signal paths) are tested and the quality metric Q(T) is stored for each of the signal paths (see column 7, lines 39 – 46 and column 14, lines 43 – 44) . Therefore Wagner clearly teaches above mentioned limitations. Therefore claims 22 and 28 remain stand rejected.

With respect to claim 40, Applicant argues that *"…the Appellant submits that claim 40 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1."*

Response – With respect claim 40, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here.

b. Rejection of Claims 2, 4, 16, 18, 33, 35, 39, 41 and 43 under 35 U.S.C. § 103(a) Wagner et al. in view of Tanaka.

With respect to claims 2, 16, 33, and 41, Applicant group claims 2, 16, 33, and 41 together and limit the argument on claim 2 only. In particular, Applicant argues that *"…the Appellant submits that claims 2, 16, 33 and 41 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Appellant also submits that Wagner in combination with Tanaka does not disclose or suggest at least the limitation of "assigning a different threshold signal quality metric for each of the plurality of signal paths," as recited by the Appellant in claim 2."*

Response -- With respect claim 2, 16, 33, and 41, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here. The office further submits that Tanaka teaches having threshold value that is variable (see column 5, lines 30). Therefore it would have been to Therefore it would have been obvious to an ordinary skilled in the art at the time the invention was made to incorporate the teaching of applying different threshold in Wagner. Therefore Wagner in view of Tanaka teaches all the cited limitations. Therefore claims 2, 16, 33, and 41 remain stand rejected.

With respect to claims 4, 18, 35, and 43, Applicant group claims 4, 18, 35, and 43 together and limit the argument on claim 4 only. In particular, Applicant argues that *"…the Appellant submits that claims 4, 18, 35 and 43 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Appellant also submits that Wagner in combination with Tanaka does not disclose or suggest at least the limitation of "dynamically changing the threshold signal quality metric for each of the plurality of signal paths," as recited by the Appellant in claims 4, 18, 35 and 43."*

Response -- With respect claims 4, 18, 35, and 43, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here. The office further submits that Tanaka teaches having threshold value that is variable (see column 5, lines 30). Therefore it would have been to Therefore it would have been obvious to an ordinary

skilled in the art at the time the invention was made to incorporate the teaching of applying different threshold in Wagner. Therefore Wagner in view of Tanaka teaches all the cited limitations. Therefore claims 4, 18, 35, and 43remain stand rejected.

c. Rejection of Claims 23 and 29 under 35 U.S.C. § 103(a) Wagner et al. in view of Mantha et al.

With respect to claims 23 and 29, Applicant argues that *"…the Appellant submits that claim 23 and 29 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1."*

Response – With respect claims 23 and 29, the Applicant makes same argument as the argument applied to claim 1 (Applicant group claims 1, 15, 31, 32, and 39 together and limit the argument on claim 1 only). Therefore the same response applied to the argument with respect to claim 1 above is applied here. The Office further submits that Mantha et al teach the method further comprising selecting one or more of said plurality of signal paths based on a history of previously selected signal paths (see page 7 right hand column, lines 8 - 12). Therefore it would have been obvious to an ordinary skilled in the art at the time the invention was made to incorporate the teaching of selecting signal path based on the history. Therefore Wagner in view of Mantha et al teaches all the cited limitations. Therefore claims 23 and 29 remain stand rejected.

d. Rejection of Claims 8, 10, 12 - 14, and 25 under 35 U.S.C. § 103(a) Wagner et al. in view of Koerner.

With respect to claims 8, 10, 12 – 14, and 25, Applicant argues that *"…Claims 10, 12-14 and 25 depend on independent claims 8 and 15, respectively. Therefore, the Appellant submits that claims 8, 10, 12-14 and 25 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claims 8 and 15, respectively."*

Response -- With respect claims 8, 10, 12 – 14, and 25, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here.

e. Rejection of Claims 9 and 11 under 35 U.S.C. § 103(a) Wagner et al. in view of Tanaka and Koerner.

With respect to claims 9 and 11, Applicant argues that *"…the Appellant submits that claims 9 and 11 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 8. The Appellant also submits that Wagner in combination with Tanaka and Koerner does not disclose or suggest at least the limitation of "assigning a different threshold signal quality metric for each of the plurality of signal paths," as recited by the Appellant in claim 9."*

Response -- With respect claims 9 and 11, the Applicant makes same argument as the argument applied to claim 1. Therefore the same response applied to the argument with respect to claim 1 above is applied here. The office further submits that Tanaka teaches having threshold value that is variable (see column 5, lines 30). Therefore it would have been to Therefore it would have been obvious to an ordinary

skilled in the art at the time the invention was made to incorporate the teaching of applying different threshold in Wagner. Therefore Wagner in view of Tanaka and keorner teaches all the cited limitations. Therefore claims 9 and 11 remain stand rejected.

f. Rejection of Claim 26 under 35 U.S.C. § 103(a) Wagner et al. in view of Mantha et al. and Koerner.

With respect to claim 26, Applicant argues that *"The Appellant also submits that Wagner in combination with Mantha and Koerner does not disclose or suggest at least the limitation of "selecting one or more of said plurality of signal paths based on a history of previously selected signal paths," as recited by the Appellant in claim 26."*

Response – However the office respectfully disagrees. The Office further submits that Mantha et al teach the method further comprising selecting one or more of said plurality of signal paths based on a history of previously selected signal paths (see page 7 right hand column, lines 8 - 12). Therefore it would have been obvious to an ordinary skilled in the art at the time the invention was made to incorporate the teaching of selecting signal path based on the history. Therefore Wagner in view of Mantha et al and Koerner teaches all the cited limitations. Therefore claims 23 and 29 remain stand rejected.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jaison Joseph/

Examiner, Art Unit 2611

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